

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-037-02-1-5-00102  
**Petitioner:** E. Feddeler and Sons, Inc.  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 010-10-01-0021-0016  
**Assessment Year:** 2002

The Indiana Board of Tax Review (Board) issues this determination in the above matter, and finds and concludes as follows:

### Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held August 27, 2004, in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$362,600 and notified the Petitioner on March 23, 2004.
2. The Petitioner filed a Form 139L on April 20, 2004.
3. The Board issued a notice of hearing to the parties dated July 21, 2004.
4. Special Master S. Sue Mayes held the hearing in Crown Point on August 27, 2004.

### Facts

5. The subject property is located at 21103 Wicker Avenue, Lowell, in West Creek Township.
6. The subject property is a 15-acre parcel with farm equipment storage buildings.
7. The Special Master did not conduct an on-site inspection of the property.
8. Assessed Value of the subject property as determined by the DLGF:  
Land: \$281,900      Improvements: \$ 80,700      Total: \$362,600.
9. Assessed Value requested by Petitioner on the Form 139L petition:  
Land: \$33,000      Improvements: \$ 80,700      Total: \$113,700.

10. Persons sworn as witnesses at the hearing:  
For Petitioner — Daniel Feddeler, Corporate Officer,  
For Respondent — David M. Depp, Cole-Layer-Trumble, Senior Appraiser.

### **Issues**

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
- a. The land value is overstated because of its classification as commercial. The land is tillable and is zoned A-1, agricultural. Part of the land was in crop in 2002. *Feddeler testimony.*
  - b. The buildings on the land are used for storing equipment. Petitioner does not conduct any commercial activity at this location. Petitioner could not build a business office at this location due to the classification of the land. The commercial address and office for the business is at a rented location at 20508 Wicker. *Feddeler testimony.*
  - c. Similar properties were improperly classified in the initial assessment. Both this property and similar properties appealed the assessments. In the notice of final assessment, this property was not treated consistently with similar properties. *Petitioner Exhibits 2-8; Feddeler testimony.*
  - d. The building listed on the fourth property record card (PRC) does not belong on this parcel. It belongs on the parcel located north of the subject parcel. *Feddeler testimony.*
12. Summary of Respondent's contentions in support of the assessment:
- a. A field inspection was made. Part of the land is being farmed and the buildings are used to store equipment. *Depp testimony.*
  - b. Respondent proposes to change the land classification from commercial to agricultural with one acre assessed as a homesite at \$36,000 and the remaining 14 acres as tillable farmland at \$15,000. *Depp testimony.*
  - c. Respondent testified that he would remove the building value from this parcel and make sure that the building is assessed on the proper parcel. The value of the remaining buildings is changed to \$61,900. *Depp testimony.*

### **Record**

13. The official record for this matter is made up of the following:
- a. The Petition
  - b. The tape recording of the hearing labeled Lake Co. - 380.
  - c. Exhibits:
    - Petitioner Exhibit 1 - Summary of Petitioner's Arguments
    - Petitioner Exhibit 2 - Outline of Evidence of Inflated Land Value
    - Petitioner Exhibit 3 - Comparison of Similar Parcels of Land
    - Petitioner Exhibit 4 - Map of Property and Comparison Properties
    - Petitioner Exhibit 5 - Notice of Final Assessment
    - Petitioner Exhibit 6 - Reconciliation Tax Bill
    - Petitioner Exhibit 7 - Notice of Final Assessment
    - Petitioner Exhibit 8 - Reconciliation Tax Bill, El-Mar Sod & Sand Inc. (3 pages)

Petitioner Exhibit 9 – Map with Farm Real Estate Values by State  
Petitioner Exhibit 10 - USDA, Agricultural Land Values, August 2002  
Respondent Exhibit 1 - Form 139L  
Respondent Exhibit 2: Subject PRC and photographs  
Board Exhibit A - Form 139L  
Board Exhibit B - Notice of Hearing  
Board Exhibit C - Sign-in Sheet.

- d. These Findings and Conclusions.

### Analysis

14. The most applicable laws are:
- a. A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Board of Tax Commissioners*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
  - b. In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“(I)t is the taxpayer’s duty to walk the Indiana Board . . . through every element of the analysis”).
  - c. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner’s evidence. *Id*; *Meridian Towers*, 805 N.E.2d at 479.
  - d. Indiana Code § 6-1.1-4-13 states “In assessing or reassessing land, the land shall be assessed as agricultural land only when it is devoted to agricultural use.”

### Value of Land

15. Petitioner provided sufficient evidence to support its contention that the land value was overstated. This conclusion was arrived at because:
- a. Petitioner asserted that the value of the subject property was overstated due to an erroneous classification. Part of the subject parcel is farmed and the buildings are used for equipment storage. There is no commercial activity at this location. *Feddeler testimony*.
  - b. Respondent made a field inspection and agreed that the land classification should be changed from commercial to agricultural. Respondent proposed that the land should be valued at \$36,000 for a one-acre homesite to support the buildings and the remaining 14 acres valued as tillable farmland at \$15,000. *Depp testimony*.
  - c. The farm buildings, however, are used for the storage of equipment, not as a homesite. *Depp testimony*.
  - d. The parcel contains three light utility buildings and one pre-engineered structure. The PRC does not include a dwelling on the parcel. *Respondent Exhibit 2*.

- e. Type 71 farmland is defined as “[1]and used for farm buildings and barn lots. This land use subtype does not include homesites. The value is determined using the appropriate soil map productivity factor and a 40% influence factor deduction.” REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A, Chapter 2 at 105.
- f. Accordingly, the Board determines that one acre should be classified as Type 71 farmland and the remaining 14 acres should be classified as tillable farmland.

**Value of Improvements**

- 16. Petitioner provided sufficient evidence to support the Petitioner’s contentions that the subject property was erroneously assessed. This conclusion was arrived at because:
  - a. Petitioner testified that the building assessed on card 4 was not part of the subject property. This building was part of the parcel located north of the subject property. *Feddeler testimony.*
  - b. Respondent testified the value of the building should be removed from the subject property. *Depp testimony.*

**Conclusions**

- 17. Undisputed testimony established that the land should be classified as agricultural. There is a change in the assessment as a result of this issue. Undisputed testimony also established that one building should be removed from the assessment of this parcel, lowering the value of the improvements to \$61,900. There is a change in the assessment as a result of this issue.

**Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed.

ISSUED: \_\_\_\_\_

\_\_\_\_\_  
Commissioner,  
Indiana Board of Tax Review

## IMPORTANT NOTICE

### - APPEAL RIGHTS -

**You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.**